

Application Serial No.: 10/772,953
Attorney Docket No.: 10086-03CIP

REMARKS

Claims 1 to 22 and 26 to 31 are pending in the present application. Applicants respectfully request reconsideration of the application in view of the foregoing amendments and the remarks appearing below.

Election/Restrictions

Applicants, through Attorney Larry Meier, provisionally elected with traverse to prosecute the invention of group II, claims 1 to 22 and 26 to 31 on October 19, 2005. Accordingly, Applicants affirm the election with traverse to prosecute the invention of group II.

The Office Action states that Mr. Larry Meier's name is not found in previously submitted documents by the Applicants. However, a "Power of Attorney by Assignee and Certification under 37 C.F.R. § 3.73(b)" was submitted to the Office along with the continuation-in-part patent application transmittal letter, dated February 4, 2004. this Power of Attorney names Customer Number 21,918, to which Larry Meier is assigned.

Rejections under Double Patenting

Claims 1 to 6, 8, 9, 11 to 13, 15 to 21, and 26 to 30 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 to 3, 7, 8, 10, 11, 21, 38, 41, 43 and 44 of copending Application No. 10/606,083.

Applicants have submitted a Terminal Disclaimer herewith for this application. Since Applicants believe that the submitted Terminal Disclaimer is sufficient to overcome the present rejection, it is Applicants' position that no further action by the Applicants is necessary at this time.

Based on the submission of the Terminal Disclaimer, Applicants respectfully submit that the rejection of claims 1 to 6, 8, 9, 11 to 13, 15 to 21, and 26 to 30 is moot.

Applicants respectfully submit that no rejections stand for independent claims 1 and 15 and dependent claims 7, 9, 10, 14, 22, 27 and 31. Accordingly, Applicants respectfully submit

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that independent claims 1 and 15 and dependent claims 7, 9, 10, 14, 22, 27 and 31 are in a condition for allowance.

Rejections under 35 U.S.C. § 103

Claims 2 to 6, 8, 11 to 13, 16 to 21, 26, and 28 to 30 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 2,587,985 to Elmendorf ("the Elmendorf patent"). Applicants respectfully disagree.

As to claims 2 to 6, claim 1, from which claims 2 to 6 depend, is in a condition for allowance, as discussed above. For at least this reason, claims 2 to 6 are patentable over the Elmendorf patent.

As to claim 8, the Elmendorf patent requires "the grain of the wood (strips) runs across the width of the paper sheet." (Col. 2, ll. 18-19) In contrast, claim 8 provides flap portions "not being covered by said plurality of protective portions." Thus, the protective portions of claim 8 do not run across the width of the paper sheet, as provided in the Elmendorf patent. The Elmendorf patent does not disclose or suggest "at least one flap portion not being covered by said plurality of protective portions," as required by claim 8. For at least this reason, Applicants respectfully submit that claim 8 is patentably distinguishable over the Elmendorf patent.

Claims 11 to 13 depend from claim 8, and so are also patentably distinguishable over the Elmendorf patent for at least the reasons discussed above with respect to claim 8.

As to claims 16 to 21, claim 15, from which claims 16 to 21 depend, does not stand rejected and is in a condition for allowance. For at least this reason, claims 16 to 21 are patentable over the Elmendorf patent.

Claim 26 provides "attaching a plurality of protective portions to said protective backing layer so as to define a flap portion that is not covered by said plurality of protective portions." In contrast, the Elmendorf patent requires "the grain of the wood runs across the width of the paper sheet." (Col. 2, ll. 18-20) Clearly, the Elmendorf patent requires the strips to run across the

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width of the paper sheet and teaches away from the "flap portions" of claim 26. The Elmendorf patent is completely silent as to a "flap portion" that is not covered by the plurality of protective portions (strips). For at least this reason, Applicants respectfully submit that claim 26 is patentably distinguishable over the Elmendorf patent.

Claims 28 to 30 depend from claim 26, and so are also patentably distinguishable over Elmendorf patent for at least the reasons discussed above with respect to claim 26.

New Claims

New claims 32 to 38 each require at least one flap portion that is not covered by a plurality of protective strips, as discussed above. The Elmendorf patent does not disclose or suggest a flap portion, let alone a flap portion that is not covered by a plurality of protective strips. Accordingly, Applicants respectfully submit that claims 32 to 38 are patentably distinguishable over the Elmendorf patent for at least this reason.

New Drawings

New drawing sheet, with new FIGS. 8 and 9, is attached.

Conclusion

In view of the foregoing, Applicants respectfully submit that claims 1 to 22 and 26 to 38 are in a condition for allowance. Therefore, prompt issuance of a Notice of Allowance is respectfully solicited. If any issues remain, the Examiner is encouraged to call the undersigned at the number listed below.

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Respectfully submitted,

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